

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ALI SADR HASHEMI NEJAD,

Defendant.

Case No. 18 Cr. 224 (AJN)

ORDER

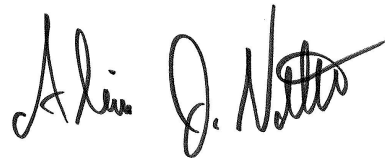
Defendant Ali Sadr Hashemi Nejad has moved for a new trial (Dkt. 336), arguing that the Government’s multiple suppressions of exculpatory evidence violated his right to a fair trial under *Brady v. Maryland*, 363 U.S. 83 (1963), and progeny (*id.* at 48-105), and that the Government’s case was recklessly false (*id.* at 105-07; *see also id.* at 7-13, 32-35; Dkt. 346, at 6-15). On May 14, 2020, this Court ordered the government to file its opposition by June 5, 2020, and stated that “failure to timely oppose by the Government will result in the Court deeming Mr. Sadr’s motions unopposed.” Dkt. 338.

On June 5, 2020, the Government filed a letter seeking an order of *nolle prosequi* of the Indictment against Mr. Sadr. In its letter, the Government acknowledged the “disclosure-related issues that arose during the March 2020 trial as well as in pre- and post-trial motion practice, including with respect to pretrial suppression litigation,” and “recogni[z]ed that Sadr would have pursued different investigative, litigation, and trial strategies had the disclosures been made.” Dkt. 348. The Government stated it “has determined that it would not be in the interests of justice to further prosecute this case.” *Id.*

In light of the Government's failure to oppose Sadr's motion for a new trial, the Court will grant the motion. The verdict in the case is therefore vacated. *See* Federal Rule of Criminal Procedure 33(a). In addition, in light of the Government's determination "that it would not be in the interests of justice to further prosecute the case," the Court will dismiss the case with prejudice. There was never a judgment of conviction in this case. The jury's verdict is vacated, and has no legal effect.

Sadr's new trial motion is GRANTED. The government's application for an order of *nolle prosequi*, construed as a motion to dismiss with prejudice under Federal Rule of Criminal Procedure 48(a), is GRANTED. The verdict is hereby vacated and the indictment is hereby dismissed with prejudice. *See* Rule 48(a).

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Alison J. Nathan", with a stylized flourish at the end.

Alison J. Nathan
United States District Judge

Dated: July 17, 2020
New York, New York